



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2012

The Honorable
Hillary Rodham Clinton
Secretary of State
2201 C Street NW
Washington, D.C. 20520

Dear Madam Secretary:

Yesterday you received a letter from the Organization for Security and Co-operation in Europe (OSCE) asking that the U.S. Department of State take steps to ensure the OSCE's election observers are not "restrained in their activities" while in the State of Texas. It appears that OSCE is under the misimpression that the State Department can somehow help its representatives circumvent the Texas Election Code. Texas law prohibits unauthorized persons from entering a polling place—or loitering within 100 feet of a polling place's entrance—on Election Day. OSCE monitors are expected to follow that law like everyone else.

As you know, Texas election laws govern anyone who participates in Texas elections. The fact that representatives of the United States joined the U.S.S.R, Yugoslavia, Romania, and other OSCE member-nations in signing a document at a 1989 conference in Copenhagen has absolutely no bearing on the administration of elections or laws governing elections in the State of Texas. Yet the OSCE invokes the 1990 OSCE Copenhagen Document to seek your help ensuring that its representatives are not "restrained" by Texas law. If the OSCE wishes to visit Texas during election season, we welcome the opportunity to educate its representatives about the State's electoral process. But OSCE is not above the law and its representatives must at all times comply with Texas law when they are present in this state.

While the 1990 OSCE Copenhagen Document cited in the OSCE letter is legally irrelevant and will have no impact on the State's administration of the November elections, for the sake of accuracy you should know that the letter misconstrues OSCE's own governing documents. Indeed, the OSCE claims that requiring its representatives to comply with Texas law somehow contravenes paragraph 8 of the Copenhagen document. That is false.

In fact, paragraph 8 specifically stipulates that OSCE representatives may only observe elections "to the extent allowed by law." As you know, in the United States that means both state and federal law. The OSCE's letter states only that its observers are committed to compliance "with all *national* laws and regulations." This statement may simply reveal that the OSCE is unfamiliar with our nation's federalist system. On the other hand, it may reveal that the OSCE does not consider itself restrained by state law. Texas needs OSCE's assurance that its

representatives will abide by Texas law when they are present in this state. We have not received that assurance.

In addition to my desire to defend and enforce Texas election laws, I am also concerned that an unnecessary political agenda may have infected OSCE's election monitoring activities. The OSCE has published policy recommendations and other reports that raise objections to state laws that prohibit convicted felons from voting, prevent voter registration fraud, and require voters to present a photo identification at the polling place. The OSCE may object to photo identification laws and prohibitions on felons voting—but our nation's Supreme Court has upheld both laws as entirely consistent with the U.S. Constitution. And perhaps ironically, the OSCE representative leading the mission to the United States hails from the Netherlands, which has a photo identification law for voters. According to the Dutch government's official website: "checking identity documents helps fight fraud." Why the OSCE appears to now question voter identification laws in the United States is beyond reason. Perhaps it is just politics. Regardless, the OSCE's perspective on Voter ID is legally irrelevant in the United States.

Indeed, contrary to the principles of "political pluralism" articulated in the 1990 OSCE Copenhagen Document, the OSCE has recently coordinated with a number of plainly partisan organizations in the United States. This appears to reflect a concerted effort to politicize an initiative that was previously perceived as an international information exchange program. While Texas may welcome visitors from any nation or international organization who wish to learn more about the steps the State has taken to protect the integrity of state elections, we need not open our doors and accommodate an international effort affiliated with partisan organizations in the United States that wish to suppress electoral integrity.

The case in point is OSCE's coordination with Project Vote, an overtly partisan organization that was founded by and closely affiliated with ACORN. As you know, ACORN collapsed in the wake of a national voter registration fraud scandal that resulted in multiple criminal prosecutions for violations of state and federal election laws. Just this week, Project Vote boasted that it was advising OSCE on which issues to study—and which states to monitor—this election cycle. In light of Project Vote's history of voter registration fraud and its more recent failed attempt to enjoin Texas election laws that were enacted to prevent fraud, no legitimate international body would affiliate with Project Vote. Consequently, OSCE's affiliation with this dubious organization necessarily undermines its credibility and the independence of its election monitors.

Rather than work closely with domestic partisan organizations to advance their shared political agenda, the OSCE should consult the report that President Jimmy Carter and Secretary of State James Baker issued as co-chairmen of the bipartisan Commission on Federal Election Reform. As you know, President Carter is one of the world's most well-known election monitors. Given President Carter's experience in this area, it is noteworthy that the report he authored found: "The electoral system cannot inspire confidence if no safeguards exist to deter and detect fraud or to confirm the identity of voters." Apparently the Netherlands agrees with that assessment, which is why the Dutch government similarly requires voters to present a photo identification before casting their ballots.

The United States Constitution authorizes the States to regulate the conduct of state and federal elections within their borders. In Texas, the Legislature has exercised its prerogative to implement laws that preclude felons from voting, prevent groups like Project Vote from questionable voter registration activities, and instill confidence in the electoral system by requiring voters to present a photo identification. While we welcome international visitors who wish to engage in a legitimate information exchange, we have no interest in being lectured by the OSCE about how best to conduct the State of Texas' business.

Unlike the unelected bureaucrats at the OSCE, our State's leaders and decision-makers were duly elected by Texas voters. Elected members of the Texas Legislature enacted the Texas Election Code to ensure our State's elections are free, fair, open, and reliable. The Election Code does not authorize OSCE's representatives to enter the polling place and nothing in a document that may govern the OSCE's conduct has any impact—legal or otherwise—on the conduct of elections in the State of Texas. If the OSCE does not wish to follow the laws that govern everyone else present in the State of Texas, including the voters who elect our State's leaders, then perhaps it should dispatch its representatives to another state.

In closing, I have a simple request: Please work with the OSCE to ensure they agree to comply with Texas law. If they refuse to do so, OSCE's representatives may be subject to legal consequences associated with any violations of state law.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Abbott", written in a cursive style.

Greg Abbott
Attorney General of Texas